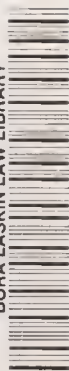


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CIVIL PROCEDURE
SUPPLEMENTAL CASEBOOK
PROFESSOR LORNE SOSSIN

**University of Toronto
Faculty of Law
2000-2001**

**CIVIL PROCEDURE II
Fridays, 11:10-1:00pm**

Instructor: Professor Lorne Sossin
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Overview

This course explores the concept of procedural justice within the context of civil litigation. We will consider how civil claims are prosecuted, defended and adjudicated, as well as how and why civil justice is distinct from criminal justice, administrative justice and other procedural settings. Our examination will also consider the legal, social and political contexts of civil litigation, as well as alternative forms of dispute resolution.

Required Course Materials

- (1) G. Watson et al., *The Civil Litigation Process* (Toronto: Emond Montgomery, 1999)
- (2) *Ontario Annual Practice 2000*
- (3) L. Sossin, *Civil Procedure Supplemental Casebook*

Evaluation

The evaluation for this course will be by a “no-downside” mid-year examination in December worth 20% and a final examination worth 80/100%

Course Description & Readings

*page numbers refer to the Civil Litigation Process text unless otherwise noted; readings include the notes which follow the text

* readings in the supplement are organized in the order they appear in this outline

Part 1 - Civil Litigation in Context

(a) Introduction to Litigation & Dispute Resolution

Galanter

Felstiner

Walkerton Case Study

83-92

675-78

Supplement

(Order in Council)	
<i>Jane Doe v. Board of Comm. of Police (Toronto)</i>	440-50
<i>Potechin v. Yashin</i>	Supplement

(b) The Adversary System

Brooks	93-106
<i>Fowler v. Fowler; Phillips et al. v. Ford</i>	106-109

(c) Fairness and Process in Comparative Perspective

Emond, "ADR: A Conceptual Overview"	216-221
CBAO: ADR Section Model Code of Conduct for Mediators	Supplement
Administrative Law & Duty of Fairness	257-266
<i>Baker v. Canada</i>	Supplement
K. Roach, <i>Due Process and Victim's Rights</i>	Supplement
<i>Public Inquiries Act</i>	Supplement
K. Roach, "Public Inquiries, Prosecutions or Both"	Supplement

Part 2 - The Economics and Ethics of Litigation

(a) Access to Justice

Rod MacDonald, "Access to Justice and Law Reform"	663-672
Michael Trebilcock, "The Case for Contingent Fees"	689-696
Wydrzynski et al., "The CAW Prepaid Legal Services Plan"	696-701
<i>R. v. Lawrie and Points Ltd.</i>	701-707
Cory report on Paralegals (executive summary)	Supplement
A Blueprint for Publicly Funded Legal Services	716-722
K. Busby, "Raising the Dough: Funding for Lawyers at Public Inquiries"	Supplement
G. Hadfield, "The Price of Law"	Supplement

(b) Ethics and the Role of Counsel

Rules of Professional Conduct	Appendix II
"A Fresh Look at the Rules of Professional Conduct"	Supplement
"Discipline Digest" (March 2000)	Supplement
Hutchinson, "Legal Ethics for a Fragmented Society"	753-60
Hutchinson, <i>Legal Ethics and Professional Responsibility</i>	Supplement

Part 3 - Commencing a Claim

(a) The Structures of Civil Litigation - Forum, Process & Jurisdiction

Rule 1	Rules
Rule 2	Rules
The Structure of a Civil Action	11
The Main Stages of a Civil Action	12
Flowchart of an Action	22, 24-25
History and Organization of the Courts	30-38
Introduction to the Rules of Civil Procedure	285-89

Part 4 - The Thresholds of Litigation

(a) Standing & Justiciability

Bogart, "Developments in the Canadian Law of Standing"	479-84
<i>Canadian Council of Churches v R.</i>	485-492
<i>CCLA v. Canada (CSIS)</i>	Supplement
L. Sossin, Boundaries of Judicial Review	Supplement
<i>Black v. Canada</i>	Supplement

(b) Limitation Periods

Limitation Act	292-96
<i>Consumers Glass v. Foundation</i>	296-302
<i>KM v HM</i>	302-312
J. Mosher, "Challenging Limitation Periods"	Supplement
J. Melnitzer, "Supremes Continue Assault on Stat. Limitation"	Supplement

(c) Res Judicata, Issue Estoppel and Abuse of Process

<i>Las Vegas Strip v. Toronto (City)</i>	494-508
Watson, "Duplicative Litigation"	508-14
<i>McIlkenny v Chief Constable of the West Midlands</i>	514-20
<i>Parklane Hosiery Co. v. Shore</i>	521-36
<i>Demeter v British Pacific Life Insurance</i>	536-41
<i>Rasanen v Rosemount Instruments Ltd</i>	541-48
<i>Minott v. O'Shanter Development Co.</i>	548-554
<i>Schweneke v. Ontario</i>	Supplement

(d) Venue and *Forum Non Conveniens*

The Nature of Territorial Jurisdiction	341-46
Rule 17	Rules
Rule 18	Rules
<i>SDI Simulation Group Inc. v. Chameleon Technologies Inc.</i>	346-52

(e) Default Proceedings

<i>Lenskis v. Ronciaoli</i>	354-58
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Part 5 - Expanding the Litigation

(a) Intervention

Rule 13	Rules
Welch, "No Room at the Top"	600-601
<i>Re Schofield and Min of Consumer and Commerical Relations</i>	601-606
<i>Borowski v Min of Justice; Cdn Civil Liberties Association</i>	606-608
<i>Re Association of Parents for Fairness in Education</i>	608-610
<i>Re Adler</i>	610-614

(b) Joinder of Claims and Parties by the Plaintiff

Rule 5	Rules
<i>Foley v Signtech</i>	556-59
Watson, "Joinder of Defendants"	561-62
<i>Thomas W. Sayle Transport Ltd v Rivers</i>	562-63
<i>Pryhslack v Urbancic</i>	563-69

(c) By the Defendant

Rule 27	Rules
Rule 28	Rules
Rule 29	Rules
<i>Teledata Communications Inc. v. Westburne Industrial</i>	574-82
<i>Daniel Industries v. Alberta Energy Co.</i>	587-89
<i>Carswell v. Traders General Ins. Co.</i>	589-92
<i>Hannah v. Canadian General Insurance Co.</i>	592-95

(d) Class Proceedings

Rule 12	Rules
Class Proceedings Act, ss.2-10	Rules
Watson, "An Overview of Ont.'s Class Proceedings Legislation"	615-23
<i>Anderson v. Wilson</i>	625-36
<i>Nantais v. Teletronics Proprietary (Canada) Ltd.</i>	638-46
<i>Smith v. Canadian Tire Acceptance Ltd.</i>	649-57

Part 6 - Discovery

Introduction; Types of Discovery; History and Philosophy	775-82
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(a) Documentary Discovery

Rule 30	Rules
<i>Grossman v Toronto General Hospital</i>	785-91
<i>Peter Kiewit Sons v BC Hydro</i>	792-97
<i>Woods v Harris</i>	797-99
<i>Ontario (A.G.) v. Stavro</i>	799-804

(b) Examinations for Discovery

Rule 31	Rules
Rule 34	Rules
"Purposes of examination for discovery"	812-13
<i>Menzies v McLeod</i>	815-17
<i>Clarkson Mews Properties Inc v Angel Creek Estates Ltd</i>	817-19
<i>Rainbow Industrial Caterers Limited v. CNR</i>	819-22
<i>Carleton Condominium Corp No. 25 v. Shenkman Corp.</i>	822-29
<i>Czuy v Mitchell</i>	829-35
<i>Burke v Gauthier</i>	835-39

(c) Privilege, Confidentiality and Implied Undertakings	
Types and Sources of Privilege	843-47
Ontario (Ministry of Environment) v. McCarthy Tetrault	847-52
Sharpe, "Claiming Privilege in the Discovery Process"	852-55
<i>Hickman v Taylor</i>	856-62
<i>Waugh v British Railways Board</i>	863-69
<i>Davies v Harrington</i>	870-74
Ingathered Documents	874-79
<i>General Accident Assurance Co. v. Chrusz</i>	Supplement
<i>Yri-York Ltd v Commercial Union Assurance Co</i>	879-89
<i>Toronto Dominion Bank v. Leigh Instruments (Trustee of)</i>	889-97
<i>A.M. v. Ryan</i>	898-906
<i>Goodman v Rossi</i>	906-17
Rule 30.1	Rules

Part 7 - Pre-Trial Motions and Disposition Without Trial

(a) Interlocutory Motions and Interim Relief	
Commentary	451-53
Rule 37	Rules
Rule 39	Rules
Rule 40	Rules
(b) Striking Pleadings	
Rule 25	Rules
<i>Copeland v Commodore Business Machines</i>	414-18
<i>Famous Players Can. Corp. Ltd. v. JJ Turner & Sons Ltd.</i>	418-21
<i>MacDonald Construction Comp. v. Ross</i>	422-31
Rule 21	Rules
<i>Jane Doe v Bd of Commissioners of Police</i>	440-50
(c) Summary Judgment	
<i>Ungerman v Galanis</i>	453-60
<i>Rogers Cable TV v 373041 Ont Ltd</i>	460-64
<i>Inspiration Management Ltd. v. Wabenung Resources et al.</i>	465-75
Rule 20	Rules

Part 8 - The Economics of Litigation - Costs

(a) Cost Shifting	
Rules 57, Rule 58, Courts of Justice Act s. 131	Rules
<i>Pittman Estate v. Bain</i>	363-73
Zuber Inquiry	373-76
<i>Pittman Estate v. Bain</i>	376-85
(b) Disciplinary Use of Costs	
<i>Young v Young</i>	393-401
(c) Settlement Offers	
Rule 49	Rules

Niagara Structural Steel v. W.D. Laflamme Ltd.

401-405

(d) Security for Costs

Rule 56

Rules, 405

